

HOUSE BILL 2944  
By Cole (Dyer)

AN ACT to amend Tennessee Code Annotated, Title 12, Chapter 4, relative to public contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 4, is amended by adding Sections 2 through 6 of this act as a new part 9.

SECTION 2. This part prescribes policies and procedures restricting the use of project labor agreements on any public construction project.

SECTION 3. As used in this part:

(1) "Construction contract" means any contract for the construction, erection, alteration, repair, improvement, movement, demolition, putting up, tearing down, or furnishing labor to install material or equipment for any building, highway, road, railroad, sewer, grading, excavation, pipeline, public utility structure, project development, housing, housing development, or other improvement to real property.

(2) "Construction management" refers to the supervision of the planning, design, bid and/or construction phases of a construction project, but not the performance of actual construction work.

(3) "Labor organization" has the same meaning it has in §4-21-102 and §36-5-1101.

SECTION 4. Any public entity receiving state funds of any type entering into any construction contract or construction management agreement, shall ensure that neither its bid specifications, project agreements, nor other contract or controlling documents to which it is a party:

(1) Require bidders, offerors, contractors or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s);

(2) Discriminate against bidders, offerors, contractors or subcontractors for refusing to become or remain signatories or otherwise adhere to agreements with one or more labor organizations, on the same or related construction project(s); or

(3) Require any bidder, offeror, contractor or subcontractor to enter into, adhere to, or enforce any agreement that requires its employees, as a condition of employment, to:

(A) Become members of or affiliated with a labor organization; or

(B) Pay dues or fees to a labor organization, over an employee's objection, in excess of the employee's share of labor organization costs relating to collective bargaining, contract administration, or grievance adjustment.

SECTION 5. (a) In each public contract for construction or construction management services, each contracting entity shall ensure that:

(1) The bid specifications, project agreements, and other contract or controlling documents of any contractor or construction manager shall not impose or enforce any of the elements specified in Section 4; and

(2) No contractor, and no subcontractor under a public construction contract, shall require, as a condition of any subcontract relating to such contract, that the party

with which it contracts impose or enforce any of the elements specified in Section 4 in performing its subcontract.

(b) This part does not prohibit a contractor or subcontractor from voluntarily entering into an otherwise lawful agreement with a labor organization regarding its own employees.

SECTION 6. Any public entity receiving state funds of any type that does not perform in accordance with Section 5 of this act is in violation of state law and such public entity is directed to remit back to the state all state funds allocated or appropriated to such public entity for the project on a timely basis as determined by the commissioner of finance and administration.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it and shall apply retroactively to all funds allocated or appropriated to public entities to which this act applies on or after January 1, 2001.